

## SEE McCALL FOR MAYOR AS MURPHY'S REAL PLAN

### Politicians Believe Tammany's Inducement to Jurist to Leave Bench Included Promise of Nomination Next Fall.

What inducement was offered to Edward Everett McCall sufficiently compelling to induce him to leave the Supreme Court bench to accept the chairmanship of the Public Service Commission? This was the live question that was agitating the minds of many last night.

A nomination for Mayor on the Tammany ticket this fall. That was the answer given by an organization man last night.

Mr. McCall, for he ceased to be Justice when his resignation was placed in the hands of Governor Sulzer last night, and he does not become Public Service Commissioner until his oath of office is filed, acknowledged yesterday that his work on the bench was most agreeable to him. He declared when the appointment to the Public Service Commission was first broached to him that he would not consider it for a moment, and that he wanted to spend the remainder of his active life as a judge.

His salary on the bench was \$17,500 a year. As a Public Service Commissioner it will be only \$15,000 a year. His term of office as Justice of the Supreme Court had four more years to run and a renomination and re-election are practically assured to Democratic judges of ability in this district.

Why, then, did Mr. McCall consent to give up his comfortable berth and accept a position with which he has no familiarity and which means an infinite amount of hard work and the greatest responsibility, after he had once refused point blank to consider an appointment to the Public Service Commission?

"Of course, I do not pretend to say just what is in the mind of Mr. Mur-

phy," said the politician, speaking of the leader of Tammany Hall. "Nor do I know just what arguments were used by Governor Sulzer in talking with Judge McCall. However, I believe that the plan is to enter the latter in the race for the Mayoralty.

"This year the situation demands a candidate who has been prominent in some live issue. It is likely that the fusion forces will nominate District Attorney Whitman or Borough President McAneny. On the bench Judge McCall was in obscurity. To bring him out and put him in as chairman of the Public Service Commission at a time when the important contracts for the dual transit system are about to be signed, to my mind, is a shrewd piece of politics. No doubt an effort will be made to place him in the position of being responsible for pushing the contracts through after the long period of negotiation, which made the public impatient. Otherwise, why did not Governor Sulzer permit Chairman Wilcox to hold over long enough to sign the contracts?"

"As head of the commission Mr. McCall will have an opportunity of showing his strength with the people. If he should prove a popular man there he would probably prove the strongest candidate Tammany could name for Mayor."

It was suggested last night that Mayor Gaynor would probably not be any too well pleased with the appointment of Mr. McCall. It is understood that he would not be at all averse toward a renomination himself. How the two men will pull together on transit matters will be watched with considerable interest.

April last the legislative committee of the institute prepared an exhaustive criticism of the contracts now pending for execution, containing twenty pages of closely written material. A copy of this criticism was delivered to each member of the Board of Estimate and Apportionment, and the protest was made in person at a public meeting of the board called for the purpose of obtaining public sentiment on the question. The letter continues:

"The suggestion made by you that public officials can subsequently alter the program upon which they were elected seems to me to strike at the very life of representative government. That we elect a man to office is but a mere formality. It is the duty of the electors to see that the man who is elected is the man who is best qualified to perform the duties of the office."

A municipal election is but a mere formality. It is the duty of the electors to see that the man who is elected is the man who is best qualified to perform the duties of the office."

Senator Wagner retorted, with great show of indignation, that there was no undue haste in the confirmation, as McCall was a state officer "filling his office with honor and distinction." He resented the insinuations of scandal concerning him in any capacity.

Senator Wagner asserted he never had heard a word of it before. He declared the recent conferences of the Public Service Commission, the transit and financial interests had been held in the homes of Chairman Wilcox and J. Pierpont Morgan and thereby a great suspicion that everything was not right had been fostered in the minds of the people. He continued:

"We desire to clear away that suspicion. The people of New York are not satisfied that Mr. Wilcox represents their interests truly. They demand of us to interfere with the work of the Public Service Commission. I have only seen the great principle of home rule, but now the responsibility is on us."

Frawley Glorifies Tammany.

Senator Frawley stamped McCall with the brand of Tammany and at the same time glorified that organization. He said he was a member of the committee which selected McCall for the judicial nomination and he resented any imputations of scandal in connection therewith. Frawley went on:

"If there had been any scandal Justice McCall would not have been elected, and my intention is to head off the judicial ticket. He has proved by his ten years' service that he possesses all the qualifications for this critical position. Now, I am a Tammany man, and there is a lot of foolishness talked here about Tammany. Tammany has governed the City of New York for probably 90 out of the 110 years since its existence. That city under Tammany has progressed as no other in the world has. Every four years a lot of candidates are put forward, but they are all out and about that they will send the Tammany leaders and followers to prison by scores, but they have never done it yet."

"When Mr. McCall takes office," promised Senator Wagner, "these conferences would be held in Mr. Morgan's back room, but in public, where they should be held. These attempts to delay confirmation are merely so that the contracts may be jammed through in this same back room, and we will not give anybody a chance to call up anybody in that room to determine if confirmation shall be made to-night or tomorrow."

Thereupon the vote was taken and Mr. McCall was formally placed in the seat of Chairman Wilcox.

John C. McCall, vice-president of the New York Life Insurance Company, was here to see the Governor this evening and seemed anxious about the confirmation. Justice McCall's secretary was in the Senate chamber during the debate.

The Hodson and Gibbs appointments were referred to the Senate Finance Committee.

**WANTS VOTE ON SUBWAYS**

**People's Institute Would Delay Contracts Till Election.**

Frederic C. Howe, managing director of the People's Institute, sent a letter yesterday to Controller William A. Prendergast, pointing out how the institute had "watched every step in the subway negotiations." Two years ago the institute protested against the Interborough plan and declared in favor of the modified triborough plan.

"Continuing, the letter says that in

## McCALL LIKELY TO SIGN CONTRACTS

### Friends of Dual System Fear Only That Companies May Cause Delay by Starting New Controversies.

#### HIS MIND OPEN, HE SAYS

#### Willcox Congratulates Successor, as He and Other P. S. C. Members Consider Amount

#### B. R. T. Ought to Pay in Queens.

Word that Governor Sulzer had appointed Justice Edward E. McCall, of the Supreme Court, to succeed Chairman Wilcox as a member of the Public Service Commission apparently came as a great surprise to all who had been interested in framing the contracts for the dual transit system. The news that the appointment had been confirmed by the Senate last night without the formality of sending it to the Finance Committee came as an even greater surprise.

Most of the city officials working on the contracts were of the belief that the confirmation would be held up a reasonable length of time in order to permit the important contracts to which Chairman Wilcox has devoted so much labor to be signed by him. The action of the Governor in supplanting Chairman Wilcox at so untimely a moment was commented on as most unfair and unreasonable, to say the least. Mr. McCall is to be designated as chairman by the Governor and will succeed Mr. Wilcox as soon as he can file his oath of office.

There is no telling when the contracts will be signed now. Justice McCall insists, and with every reason, that he shall have all the time necessary to acquaint himself with the entire problem before he acts. As he confessed he knows absolutely nothing about the question, he will probably need some time.

#### Companies' Attitude Fears.

Friends of the dual system do not express any fear but that in the end Justice McCall will give the contracts for the dual system. However, they are afraid the companies may take advantage of the delay to start new controversies in a hope that the question can be reopened and they, possibly, get better terms.

Members of the commission—Commissioner Cram, of course, being excepted—were at the home of Chairman Wilcox last night when they heard of the confirmation of his successor. They were not expecting such news and were straining every nerve in order to get the contracts ready for adoption at the earliest possible moment.

Travis H. Whitney, secretary of the commission, was at the printers' last night, rushing the work there, and the interborough contracts were being sent to the conference at the home of Chairman Wilcox sheet by sheet.

Chairman Wilcox sent the following telegram to Justice McCall soon after hearing of his appointment.

"I congratulate you on your appointment as chairman of the Public Service Commission and beseech for you a successful administration. Your high reputation in this community is an earnest of the work which may be expected from you in the important office."

In the afternoon Chairman Wilcox said the commission hoped to have the contracts ready to-morrow, and, of course, he hoped to sign them before he went out of office. "But," he added, "I do not expect that this work is going to come to any sudden stop when I go out. It will go right along. It will be a question of 'The king is dead. Long live the king.'"

Mayor Gaynor sent word from his office that he had no comment to make on the appointment. Other members of the Board of Estimate and Apportionment, however, were of the opinion that the confirmation of Justice McCall was a distinguished man."

"My mind is entirely open on this entire proposition," declared Justice McCall in the afternoon. "Indeed, it is more than that, it is a blank. I have not the slightest knowledge of the points involved in these contracts other than what I have gained by a casual reading of what the papers have printed."

In general Justice McCall said he had never weighed in his mind any of the broad questions of municipal operation, as well as ownership, or of municipal construction entirely as opposed to taking in some private capital for construction. There had never been a case before him involving the Public Service law and he had never read it until he looked into certain features at the Executive Mansion in Albany a week ago Sunday.

Justice McCall said his understanding was that Governor Sulzer wanted him to take up his duties at the earliest possible moment. However, he expressed the hope that the contracts might be signed before he took office. But he did not know how long it would take to have the appointment confirmed. Inasmuch as he has been a state officer, he thought possibly Senatorial courtesy would lead the Senate to confirm the appointment without sending it to the Finance Committee first, as is customary.

"I hope the cup will pass from my lips," was the way he expressed it. "However, if it becomes my duty to consider these contracts, I shall do it conscientiously. If it becomes necessary for me to sign the contracts I shall not do it until after I have thoroughly digested and analyzed them and am satisfied that they are in the best interests of the city."

**Haste Would Mean Incapacity.**

"Any man who signed such contracts without due consideration would by that act show his incapacity to fill the office. If I were Governor I should remove such a man at once."

Asked if he would ask for any particular period for consideration of the contracts, Justice McCall replied:

"I'll not ask any time. I'll take time. I will study them and when I have finished with that study will report my attitude to my colleagues."

Justice McCall said he was not looking for any credit that might come from signing the contracts. "Considering this as man to man," he added, "I hope I am

## HUGHES INVESTIGATION INVOLVED JUSTICE McCALL

### Insurance Inquiry Revealed Transactions with His Brother and "Andy" Hamilton in N. Y. Life Suit.

Justice Edward Everett McCall is a brother of John A. McCall, who was president of the New York Life Insurance Company, and who died in 1906, a few months after the investigation of the life insurance methods that prevailed prior to 1905. The name of Edward Everett McCall was mentioned often in the course of the Hughes investigation.

In 1901 a law was passed taxing all life insurance companies for the first time on their premium receipts. John A. McCall believed that the State of New York had no right to tax a contract made prior to the passage of the act and it was decided to bring suit.

In his testimony before the legislative investigating committee John A. McCall said:

"I didn't care to act as the attorney for the New York Life—didn't care to act as the party in the suit, and so the President Savings of this city, was made the complainant. The case was carried to the Court of Appeals of New York and decided in October, 1901, and Justice (Andy) Hamilton won the suit. It made a difference of one million dollars to the three great companies of New York in the matter of taxation. We agreed with him the New York Life. At least, that we should give him one-third of the recovery made from the decision in the suit. The decision was favorable, and he should have no fee whatever in case he lost his suit."

**Same Arrangement with McCall.**

The proceedings continued:

Q. By Hughes: The litigation was started in 1902, was it not? A. I think that is the year.

Q. In other words, proceedings were begun in 1902 for the purpose of showing that contracts made before the passage of the act were not subject to this tax? A. Yes.

Q. Who was the attorney at the beginning of that proceeding? A. I think Mr. A. J. Hughes was the attorney.

Q. The same contingent arrangement? A. Yes, the same thing. After he went on the bench Justice Hamilton took his interest in it.

Q. So that the original arrangement was made with Judge McCall when he was a solicitor? A. Yes, and Justice Hamilton; they acted together in the case.

Q. And in 1903 it was before the Appellate Division, which confirmed the decision, didn't it? A. That is right.

Q. Up to that time Justice Hamilton had nothing to do with it, so far as his appearance in the case before the courts is concerned? A. I think not.

Q. The argument was not a very extended one, was it? A. Well, I read the brief in the cases. I thought they were very thoroughly tried.

Q. There was no evidence in the case? A. Yes.

Q. And the record was a short one? A. Yes, not very long. I think.

Q. Now, can you explain why it would not have been appropriate for the New York Life Insurance Company to employ one of its counsel upon the usual terms to bring the proceeding and make the

not jackass enough to try to get any credit for simply signing my name to work that has taken other men years to prepare. All credit should go to those who have labored on this matter for so long."

It was about four weeks ago when the matter of taking the appointment to succeed Chairman Wilcox was first suggested to Justice McCall. His friends say he vigorously rejected the suggestion, declaring he wished and expected to spend the remainder of his life on the bench. They maintain he expressed to them the idea that he was annoyed by the suggestion and had even said it was abhorrent to him.

Justice McCall had about come to the conclusion that consideration of his name had been dropped when Governor Sulzer walked in on him at his home here.

"He presented his demand that I accept the appointment in such a way that I could not well refuse," said the Justice. "He said I had been honored by election to the bench, that the people wanted me to accept this place and that it was my duty to accept it."

"And any else confer with you at the time?" Justice McCall was asked.

**Governor Alone Responsible.**

"Is it a fair question to ask whether the insistence that you accept the appointment came from any one else except the Governor?"

"Unquestionably, no," came the reply. "This is an affair between the Governor and myself. As a matter of fact, the very few friends with whom I have consulted on the subject strongly advised me from taking a political appointment."

After further consideration Justice McCall acted as desired by the Governor, and early yesterday afternoon sent his resignation from the Supreme Court to Albany. It was accompanied by the following letter:

February 2, 1913.

Hon. William Sulzer, Capital Albany, N. Y.

Dear Governor: I have determined, after my chat with you and reflecting upon what you urged, that I must sacrifice all personal considerations and respond to your request, in observance of a duty I owe the people, whose great interests I am striving to protect, and will do what you wish.

I am leaving a work that I am devoted to, and in which I hope I have met, in some small measure, that which was expected of me. I am severing companionships of the most great and unselfish endeavor and labor for their state and country will undoubtedly meet the full appreciation of the people, for whom they are striving, and in leaving them it tears at the heart strings, but I am left no alternative, and I shall send by the messenger who bears this letter my resignation as Supreme Court Justice and will take up the duties of my new assignment with the promise to you to devote all the I am possessed of in the way of energy and ability to the accomplishment of all of the duties that may devolve upon me.

With the warmest regards to you personally. Very truly yours,

**Begged to Recall His Resignation.**

After he had forwarded his resignation Justice McCall told his friends among the Justices of the Supreme Court what he had done. They begged him to recall his action. Then they sent word to the Governor asking him not to send the appointment to the Senate until they had a chance of sending a delegation to Albany to beg him in person not to take Justice McCall from the bench.

When Justice McCall returned to his home, at No. 32 West 89th street, after the theatre last night, he found the following telegram from Governor Sulzer awaiting him:

The Senate has just confirmed your appointment as chairman of the Public Service Commission of the 1st District. Congratulations.

Justice McCall said he was pleased to know the Senate requested so quickly in the appointment and hoped everybody was as pleased as he.

The Justice said he wanted to make it

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## ANAWANDA CLUB'S BALL

Murphy and Other Prominent Tammany Men Attend.

The Anawanda Club, of the 12th Assembly District, held its annual ball and reception last night at the Lexington Opera House, No. 115 East 58th street. Charles F. Murphy appeared about 10 o'clock and occupied a box. In the next box sat J. Sergeant Cram, of the Public Service Commission. Practically every Tammany leader in New York and a host of other politicians were present.

Among those present were: Judge Edward E. McCall, the new Public Service Commissioner; Supreme Court Justices Gerard, Cohan, Hendrick, Erlanger and Giegerich; James E. Gaffney, Judges Edward B. La Petra and Michael F. Blake, Justice Joseph S. Moss, Fire Commissioner Johnson and Police Commissioner Waldo, along with Deputy Commissioner Dillon, and Commissioners Drummond, of the Charities Department, and Whitney, of the Correction Department.

It was also shown at the investigation that \$3,000 paid by J. P. Morgan & Co. out of the profits of a transaction in United States Steel was to take up notes of "Judge" Hamilton and of Justice E. E. McCall, in behalf of the "Judge," and this method was taken to keep the matter hidden and out of the report to the State Superintendent of Insurance.

In April, 1903, Justice McCall issued an explanation of loans made by the Phoenix Fire Insurance Company to William H. Buckley, the Albany lobbyist. The statement was accepted by Superintendent Hotchkiss. Buckley borrowed the money to meet a loan.

Edward E. McCall was born at Albany in January, 1863. The McCall family received a great deal of money from the New York Life Insurance Company. In salaries the family got more than \$150,000 from the time that John A. McCall was elected president up to 1906.

Justice McCall's term in the Supreme Court does not expire until December 31, 1916. His present yearly salary is \$17,500. The salary of Public Service Commissioner is \$15,000.

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